

Message Text

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C O N F I D E N T I A L SECTION 01 OF 03 BONN 00834

E.O. 11652: GDS
TAGS: PFOR PGOV IMCO EEC ECE WB GW UR US UK FR
SUBJECT: TWO RECURRENT LINES IN SOVIET POLICY TOWARD
BERLIN

REFS: (A) BONN 738; (V) BONN 597 NOTAL;
(C) 76 BONN 21468 NOTAL; (D) 76 GENEVA 9757 NOTAL;
(E) 76 MOSCOW 18075 NOTAL;
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BEGIN SUMMARY. CONSIDERABLE ATTENTION HAS BEEN FOCUSED
OF LATE ON SOVIET INTERFERENCE WITH THE EXERCISE BY
THE FRG OF ITS RIGHT TO REPRESENT THE INTERESTS OF WEST
BERLIN ABROAD. THE AREA OF REPRESENTATION, HOWEVER,
IS ONE WHICH SERVES MORE IMPORTANTLY TO PROVIDE A
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VEHICLE FOR EXPRESSION OF OTHER, INTER-CONNECTED
ELEMENTS OF SOVIET POLICY TOWARD BERLIN. THIS MESSAGE
DISCUSSES RECENT SOVIET ACTIVITY IN TWO AREAS:
ATTACKS ON THE ACTIVITIES OF FEDERAL GERMAN AGENCIES
AND INSTITUTIONS LOCATED IN WEST BERLIN, AND
RECURRENT SOVIET ASSERTIONS OF LIMITATIONS ON ALLIED
RIGHTS AND RESPONSIBILITIES IN WEST BERLIN. THE

LATTER ELEMENT IS ONE WHICH, IN THE EMBASSY VIEW, WILL SOONER OR LATER REQUIRE A STRONG ALLIED RESPONSE. THERE IS NO AGREEMENT IN THE BONN GROUP AS TO WHEN OR HOW THAT RESPONSE SHOULD BE MADE. END SUMMARY.

1. THE BONN GROUP HAS BEFORE IT SEVERAL ITEMS OF UNFINISHED BUSINESS WHICH, WHILE RELATED IN ONE WAY OR ANOTHER TO THE REPRESENTATION BY THE FRG OF THE INTERESTS OF WEST BERLIN, ALSO GIVE A MORE SPECIFIC PICTURE OF TWO TACTICAL STRANDS OF SOVIET POLICY TOWARD BERLIN. ONE RELATES TO THE CONTINUING SOVIET ATTACKS ON THE PRESENCE OF FEDERAL INSTITUTES AND AGENCIES IN BERLIN. THE OTHER SEEMS TO BE AN INTENSIFICATION OF EFFORT TO DISPUTE THE RIGHT OF THE THREE WESTERN ALLIES TO HAVE THE FINAL SAY ON THE LEGALITY OF FRG ACTIONS AFFECTING WEST BERLIN. WE OFFER SOME COMMENTS ON THE INTERRELATIONSHIP OF THESE VARIOUS ITEMS.

2. SINCE THE ESTABLISHMENT OF THE FEDERAL ENVIRONMENTAL AGENCY (FEA) IN BERLIN IN 1974, THE SOVIETS HAVE STEPPED UP THEIR ATTACKS IN VARIOUS INTERNATIONAL FORUMS ON THE PARTICIPATION IN FRG DELEGATIONS OF OFFICIALS FROM BERLIN-BASED FEDERAL INSTITUTES. THE GENERAL THEME IS THAT THOSE INSTITUTES -- NOT ONLY THE FEA BUT ALSO THOSE ESTABLISHED LONG BEFORE THE QA -- ARE ILLEGAL BECAUSE OF THE QA PROVISION THAT THE WESTERN SECTORS OF BERLIN CONTINUE NOT TO BE A PART OF THE FRG, AND HENCE THAT IT IS IMPROPER FOR THEIR OFFICIALS TO PARTICIPATE IN THE WORK OF INTERNATIONAL CONFIDENTIAL

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ORGANIZATIONS. IN MANY INSTANCES, THESE PROTESTS SEEM TO BE PRIMARILY FOR THE RECORD, AS THE SOVIETS HAVE NO PRACTICAL OPPORTUNITY TO INTERFERE WITH THE WORK OF THE OFFICIALS IN QUESTION. THEY ARE ALERT, HOWEVER, TO WHATEVER OPPORTUNITIES PRESENT THEMSELVES FOR SUCH INTERFERENCE.

3. AT SEVERAL MEETINGS OF THE UN COMMISSION ON TRANSNATIONAL CORPORATIONS (TNC), THE SOVIETS AND THEIR ALLIES HAVE RAISED STRENUOUS OBJECTIONS TO THE PARTICIPATION OF THE DIRECTOR OF THE FEDERAL CARTEL OFFICE, WHICH IS LOCATED IN BERLIN, AS HEAD OF THE FRG DELEGATION. THE DEPARTMENT WILL ALSO RECALL THREATS BY THE GDR LAST YEAR TO REFUSE A VISA TO AN OFFICIAL OF THE FEDERAL HEALTH OFFICE FOR PARTICIPATION IN A UNEP SEMINAR IN KARL MARX STADT. THE VISA WAS FINALLY ISSUED, BUT THE OFFICIAL WAS THE OBJECT OF PROTEST AND DISCRIMINATION AT THE SEMINAR.

4. IN THE INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION (IMCO), THE SOVIETS ARE CONTINUING TO INSIST THAT NO REFERENCE TO THE FEDERAL OFFICE FOR MATERIAL TESTING BE MADE IN IMCO DOCUMENTS; REFTEL (A)

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C O N F I D E N T I A L SECTION 02 OF 03 BONN 00834

C O R R E C T E D C O P Y (PARA SIX)

CONTAINS THE TEXT OF A NOVEMBER 29 SOVIET PROTEST, RENEWING THAT DEMAND. IN GENEVA, THE SOVIETS ARE CURRENTLY ATTEMPTING TO PREVENT CIRCULATION OF A PAPER SUBMITTED BY AN OFFICIAL OF THAT SAME OFFICE AT A DECEMBER MEETING OF THE ECE WORKING PARTY ON BUILDING INDUSTRY (REFS B, C AND D).

5. THE ALLIES HAVE CONSISTENTLY POINTED OUT, IN RESPONDING TO THESE SOVIET PROTESTS, THAT THE LOCATION AND FUNCTIONING OF THE FEDERAL OFFICE IN QUESTION WAS LEGAL BECAUSE AUTHORIZED BY THE ALLIES IN THE EXERCISE OF THEIR SUPREME AUTHORITY IN WEST BERLIN.

OUR RESPONSES HAVE NOT OF COURSE DETERRED THE SOVIETS
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FROM THEIR CONTINUING ATTEMPT TO CREATE THE IMPRESSION
INTERNATIONALLY THAT THE FRG IS SOMEHOW ILLEGALLY
ENCROACHING ON WEST BERLIN AND CONSISTENTLY VIOLATING
THE QA. IT SEEMS CLEAR THAT THE FEDERAL PRESENCE IN
WEST BERLIN HAS BECOME A MAJOR SOVIET TARGET.

6. POTENTIALLY MORE DISTURBING IS THE RECURRING LINE
IN SOVIET PROTESTS OVER THE PAST YEAR TO THE EFFECT
THAT, QUITE APART FROM WHAT MIGHT HAVE BEEN AGREED IN
THE QA, THE ALLIES NEVER HAD THE AUTHORITY TO RATIFY
GERMAN ACTIONS WHICH THE SOVIETS CONSIDER ILLEGAL. THIS
LINE QUESTIONS BOTH THE ORIGIN AND THE EXTENT OF ALLIED
RIGHTS AND RESPONSIBILITIES AND IS A THROWBACK TO THE
1958-61 ERA. IT HAS NOW APPEARED IN THREE PROTESTS
OF WHICH WE ARE AWARE, TWO RELATING TO FEDERAL
INSTITUTES AND ONE TO THE EXTENSION OF THE EC TREATIES
TO BERLIN:

A. IN THE LAST PROTEST TO THE UN TNC (REF G),
THE SOVIET ASSERTION WAS WORDED AS FOLLOWS:

"THE ILLEGAL CHARACTER OF THE ESTABLISHMENT
BY THE FRG OF THE 'FEDERAL CARTEL OFFICE' IN THE
WESTERN SECTORS OF BERLIN CANNOT BE CHANGED BY THE
FACT THAT, AS THEY STATE IN THEIR LETTER, THE
THREE POWERS AGREED TO THAT ACTION IN 1957. IT IS
WELL KNOWN THAT THE RIGHTS AND RESPONSIBILITIES
OF THE THREE POWERS IN AND WITH RESPECT TO THE WSB
DERIVE FROM THE QUADRIPARTITE AGREEMENTS AND
DECISIONS REACHED DURING THE WAR AND THE POSTWAR
PERIOD. THESE AGREEMENTS AND DECISIONS DID NOT
AND DO NOT BESTOW UPON THE THREE POWERS ANY
AUTHORITY TO SANCTION ILLEGAL ACTS BY THE FRG
AIMED AT UNDERMINING THE POSITION OF THE WSB AS
A SEPARATE ENTITY WHICH DOES NOT FORM PART OF THE
FRG AND IS NOT GOVERNED BY IT."

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B. THE CONFIDENTIAL SOVIET DEMARCHE OF NOVEMBER
16, CONCERNING THE CONTINUED PARTICIPATION OF APPOINTED
REPRESENTATIVES FROM BERLIN IN A DIRECTLY-ELECTED
EUROPEAN PARLIAMENT (REF E), CONTAINED THE FOLLOWING

STATEMENT:

"THE ILLEGAL CHARACTER OF THE EXTENSION BY THE FRG TO THE WSB OF THE TREATY ACTS OF THE EC IS NOT CHANGED BY THE CIRCUMSTANCE THAT IT WAS BROUGHT INTO BEING WITH THE AGREEMENT OF THE THREE POWERS. THE RIGHTS AND RESPONSIBILITY OF THE THREE POWERS IN THE WSB ARE BASED ON THE FOUR POWER AGREEMENTS AND THE WARTIME AND POSTWAR DECISIONS. THESE AGREEMENTS AND DECISIONS DID NOT GRANT AND DO NOT GRANT TO THE THREE POWERS THE AUTHORITY TO LEGALIZE ILLEGAL ACTS OF THE FRG WHICH ARE INCOMPATIBLE WITH THE SPECIAL STATUS OF THE WESTERN SECTORS OF BERLIN."

C. THE NOVEMBER 29 IMCO PROTEST (REF A) USED THE FOLLOWING VARIATION OF THE SAME FORMULATION:

"THE ILLEGITIMATE NATURE OF THE LOCATION BY THE FRG OF THE SAID DEPARTMENT IN WEST BERLIN CAN IN NO WAY BE ALTERED BY THE FACT THAT THE THREE POWERS, AS STATED IN THE NOTE VERBALE OF SEPTEMBER 6, 1976, AGREED TO IT IN 1954. AS IS KNOWN, THE RIGHTS AND RESPONSIBILITY OF THE THREE POWERS IN THE WSB AND IN RELATION TO THEM, ARE BASED ON THE FOUR-POWER AGREEMENTS AND DECISIONS OF THE WAR AND POSTWAR TIME. THESE AGREEMENTS AND DECISIONS HAVE NOT GIVEN AND DO NOT GIVE THE THREE POWERS ANY AUTHORITY TO SANCTION ILLEGITIMATE

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ACTIONS BY THE FRG WHICH DO NOT
CORRESPOND TO THE STATUS OF THE WSB AS A SPECIAL
FORMATION WHICH IS NOT A PART OF THE FRG AND IS
NOT GOVERNED BY IT. THE TIES BETWEEN WEST
BERLIN AND THE FRG CAN BE MAINTAINED ONLY WITH DUE
ACCOUNT TAKEN OF IT."

7. AN ISSUE NOT YET FULLY RESOLVED IS WHETHER, AND
IF SO WHEN THE ALLIES SHOULD MAKE A FULL REPLY TO THE
SOVIETS ON THIS TENDENTIOUS VIEW THAT OUR RIGHTS
STEM FROM AGREEMENTS RATHER THAN FROM RIGHT OF
CONQUEST AND ARE SUBJECT TO SOVIET INTERPRETATION AS
TO THEIR EXTENT. THE ISSUE WAS DEBATED AT CONSIDERABLE
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LENGTH IN THE BONN GROUP IN REPLYING TO THE TNC
PROTEST, AND GENSCHER'S INSISTENCE ON A FULL REPLY WAS
OVERCOME ONLY AFTER THE DECISION HAD BEEN REACHED AT
THE OSLO QUADRIpartite MEETING TO UNDERTAKE AN
EDUCATIONAL CAMPAIGN ON BERLIN ISSUES INTERNATIONALLY
(REF F AND PREVIOUS). THE REPLY TO THE PROTEST THUS
WAS LIMITED TO A BRIEF REAFFIRMATION OF THE ALLIED
POSITION ON RIGHTS AND RESPONSIBILITIES.

8. THE ISSUE WAS AGAIN DEBATED IN DRAFTING SESSIONS ON
A REPLY TO THE NOVEMBER 16 DEMARCHE CONCERNING BERLIN
AND THE EC. ACTING ON GUIDANCE RECEIVED AT THE
DECEMBER 1976 BRUSSELS QUADRIpartite MEETING, THE BONN
GROUP REVISED EXISTING DRAFTS SO THAT THE AD REF TEXT
NOW UNDER CONSIDERATION STATES ONLY THAT THE ALLIES
CONSIDER IT UNNECESSARY TO REITERATE THEIR WELL KNOWN

POSITION CONCERNING THE ORIGIN AND EXTENT OF ALLIED RIGHTS AND RESPONSIBILITIES IN BERLIN (BONN 21268). THE DEPARTMENT AND THE FRENCH HAVE APPROVED THIS TEXT, BUT IT DOES NOT YET HAVE THE APPROVAL OF GENSCHER OR THE BRITISH. AS REPORTED SEPTEL, THE UK BONN GROUP REP HAS RECEIVED INDICATIONS THAT THE FCO IS HAVING SECOND THOUGHTS ABOUT THE DESIRABILITY OF SO LIMITED A REPLY.

9. THE BONN GROUP NOW HAS BEFORE IT A DRAFT REPLY TO THE LATEST IMCO PROTEST (REF A), AND AGAIN THE BASIC ISSUE IS HOW TO TREAT THE PASSAGE QUOTED IN PARAGRAPH 6.C ABOVE. IN THE JANUARY 11 MEETING, THE BONN GROUP DECIDED TO DEFER ACTION ON THAT REPLY UNTIL AGREEMENT #AD BEEN REACHED ON THE REPLY TO THE NOVEMBER 16 EC PROTEST.

10. IN THE VIEW OF THE EMBASSY, IT WILL BE NECESSARY SOONER OR LATER TO REAFFIRM IN CLEAR TERMS THE ALLIED VIEW ON BOTH THE ORIGIN AND THE EXTENT OF ALLIED RIGHTS. IT MAY BE PREFERABLE IN THE FIRST INSTANCE TO DO THAT
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IN A CONFIDENTIAL MESSAGE TO THE SOVIETS, AN OPPORTUNITY WHICH WOULD BE AFFORDED BY THE REPLY TO THE NOVEMBER 16 EC PROTEST. IT COULD THEN PERHAPS LATER BE REPEATED IN A MESSAGE CIRCULATED IN AN INTERNATIONAL ORGANIZATION, ALTHOUGH THE UN WOULD PERHAPS BE A BETTER FORUM THAN IMCO. BEFORE RECOMMENDING ANY ACTION, HOWEVER, WE WILL AWAIT THE BRITISH POSITION ON THE PRESENT AD REF TEXT ON THE EC REPLY. STOESSEL

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